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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO.
10/083,205	02/26/2002	Lawrence Zupon	15-841	5684

7590

06/06/2003

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Keep in case

Office Action Summary

Application No.

10/083,205

Applicant(s)

ZUPON ET AL.

Examiner

Ula C Ruddock

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-8 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8 and 14, drawn to a reflective insulation system, classified in class 442, subclass 59.
 - II. Claims 9-13, drawn to a method of making a reflective insulation system, classified in class 156, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by another process, i.e. by coextruding the reflective sheet, the fiberglass insulation, and the vapor barrier sheet and then spray coating the hot melt glue.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Kenneth Smith on May 19, 2003, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-8 and 14.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-13

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are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

6. The information disclosure statement filed May 10, 2002, has been considered. However, two of the cited documents, specifically, document #1, 5, and 7 have no date. Applicant is asked to supply an approximate date (the year will suffice) for these documents. Otherwise, they will not be considered.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 5 recites the limitation "layer of polypropylene" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is suggested that Applicant amend the claim to read on either claim 3 or 4.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1- 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaupre (US 4,310,587) in view of Ward et al. (US 4,736,552). Beaupre disclose a vapor barrier sheet that is useful for insulation (abstract). The insulation comprises a fiberglass batting and the vapor barrier sheet has a substrate sheet that is metallized with thin layers of aluminum (col 2, ln 53-59). Adhesives are used to bond the batting to the barrier sheet; these adhesives include hot melt adhesives (col 2, ln 64-68). Beaupre discloses the claimed invention except for the teaching of a vapor retarder material.

Ward et al. (US 4,736,552) disclose a roof insulation system having a vapor barrier comprising an impervious polypropylene-scrim-kraft paper material (col 4, ln 28-31). It would have been obvious to have used Ward's vapor barrier along with the insulation material and vapor barrier sheet of Beaupre, motivated by the desire to create an insulation material with a high level of tensile strength and resistance to tear.

With regard to claim 5, it should be noted that optimizing the thickness of layers is a result effective variable. For example, the thickness of a layer directly affects the strength and durability of the laminate. Therefore, it would have been obvious to have made the polypropylene in the insulation of Beaupre and Ward et al. have a thickness of 0.0015 inches, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have made the polypropylene 0.0015 inches thick, motivated by the desire to create a vapor barrier sheet with increased strength and resistance to tear.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beaupre (US 4,310,587) in view of Ward et al. (US 4,736,552) and Denenberg (US 3,097,124). Beaupre disclose a vapor barrier sheet that is useful for insulation (abstract). The insulation comprises a fiberglass batting and the vapor barrier sheet has a substrate sheet that is metallized with thin layers of aluminum (col 2, ln 53-59). Adhesives are used to bond the batting to the barrier sheet; these adhesives include hot melt adhesives (col 2, ln 64-68). Beaupre discloses the claimed invention except for the teaching of a vapor retarder material.

Ward et al. (US 4,736,552) disclose a roof insulation system having a vapor barrier comprising an impervious polypropylene-scrim-kraft paper material (col 4, ln 28-31). It would have been obvious to have used Ward's vapor barrier along with the insulation material and vapor barrier sheet of Beaupre, motivated by the desire to create an insulation material with a high level of tensile strength and resistance to tear.

Beaupre and Ward et al. disclose the claimed invention but fail to teach that the aluminum is perforated. Denenberg (US 3,097,124) disclose an insulating wallboard having an aluminum outer layer that has holes, i.e. perforated (col 2, ln 41-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used Deneberg's method of perforating on the aluminum in the insulation material of Beaupre and Ward et al. motivated by the desire to create an insulation material that prevents undue moisture condensation and permits sufficient, though small, air circulation.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 703-305-0066. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

UCR *UCR*
June 2, 2003

Ula Ruddock